

September 7, 2024

IN THE UNITED STATES DISTRICT  
COURT FOR THE DISTRICT OF NEW  
JERSEY MARTIN LUTHER KING  
BUILDING AND U.S. COURTHOUSE

**Mark Appelgren, Pro Se**  
3718 Columbia Pike, Apt. 2  
Arlington, VA 22204

Complainant/Plaintiff

v.

**City of Fort Lee, New Jersey**  
Fort Lee Borough Hall  
309 Main St.  
Fort Lee, New Jersey 07024

and

**Fort Lee Police Department, New Jersey,**  
1327 16th St.  
Fort Lee, New Jersey, 07024

and

**Fort Lee Police Department, New Jersey,**  
**Fort Lee Officers JOHN DOES 1-10,**  
1327 16th St.  
Fort Lee, New Jersey 07024

Defendants

Case No.:

2:24 – CV – 08013 –  
MCA – MAH

Date Formal Filed:

09/07/2024

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PLAINTIFF'S RESPONSE TO DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR  
ADJOURNMENT AND ISSUANCE OF AMENDED SUMMONS

TO THE HONORABLE Judge Madeline Cox Arleo:

The Plaintiff, Mark Appelgren, respectfully submits this response to Defendants' opposition to Plaintiff's Motion for Adjournment and Issuance of Amended Summons. Plaintiff seeks to clarify his intent behind the previously filed motion, express his continued willingness to move forward with the case, and highlight his commitment to following the procedural rules. Plaintiff also wishes to confirm that any decision on how to proceed with the case remains entirely at the discretion of this Honorable Court.

1. Clarification of Motion for Adjournment

Plaintiff acknowledges that the original Motion to Stay filed on September 3, 2024, was filed prematurely and should have been characterized as a Motion for Adjournment. The intention was never to cause delay but rather to afford the Defendants and their counsel sufficient time to respond once they had been made aware of the Amended Complaint and Summons.

At the time the motion was filed, no attorney had yet appeared on behalf of Defendants, and there had been no response to the original Complaint filed on July 23, 2024. Out of an abundance of caution and as a courtesy to Defendants, Plaintiff sought to ensure they would have ample time to review the Amended Complaint filed on August 27, 2024, and entered into the record on August 28, 2024, as well as the Amended Summonses.

## 2. Issuance of Amended Summons

Plaintiff formally requested the Amended Summonses for the Amended Complaint several days ago and only received the summonses from the Court on September 5, 2024. Now that Plaintiff is in possession of the required documents, Plaintiff intends to serve them properly and promptly on or about September 9, 2024, via a service processor. Defendants' counsel will also receive the Amended Summonses and Amended Complaint electronically through email and via the CM/ECF system, ensuring compliance with Rule 5(b)(1) of the Federal Rules of Civil Procedure.

## 3. Service of Original Complaint

The original Complaint was served on Defendants on August 13, 2024, with the City of Fort Lee being served through Municipal Clerk, Nadine (last name unknown), at 309 Main St., Fort Lee, NJ. The Fort Lee Police Department was served on August 9, 2024. At the time of service, no counsel had appeared on behalf of Defendants, and Plaintiff had no contact information for Defendants' attorneys.

It was only on September 5, 2024, that Mary C. McDonnell entered her appearance as counsel for Defendants. Until this point, Plaintiff could not serve any additional documents directly to Defendants' attorneys.

## 4. Plaintiff's Willingness to Proceed

Plaintiff originally sought an adjournment purely as a courtesy to Defendants, given that no attorney had appeared on their behalf and no response to the original Complaint had been filed. However, now that Defendants' counsel has appeared and if Defendants' attorneys do not wish to request additional time, Plaintiff is fully prepared to proceed with the litigation.

Plaintiff acknowledges that Defendants now have 21 days to respond to the Amended Complaint, per Rule 12(a)(1) of the Federal Rules of Civil Procedure, and this time frame aligns with the scheduled October 7, 2024, hearing date for the pending motion. Plaintiff is prepared to move forward at any time deemed appropriate by this Honorable Court.

#### 5. Clarification on Amended Summons and Future Service

The Amended Summonses were only issued by the Court on September 5, 2024, at approximately 2:30 PM. Prior to this, Plaintiff had filed his Motion for Adjournment on September 3, 2024, at 8:12 AM to ensure that there would be no procedural issues regarding the Amended Complaint or Summons. Plaintiff's motion was entered by the Court at 4:03 PM on September 5, 2024, and Defendants' attorney filed their response on the same day.

Plaintiff fully intends to provide proper service of the Amended Complaint and Amended Summonses to Defendants as required by law, and once service is completed, Plaintiff will notify the Court of the service. Additionally, Defendants' counsel will receive all future filings and motions electronically through the CM/ECF system, as well as by email.

#### 6. Case Law in Support of Plaintiff's Actions

Plaintiff's conduct aligns with the procedural guidelines established by Rule 15(a)(3), which grants 14 days to respond to an amended pleading. Courts have ruled in favor of providing necessary time for the review of amended pleadings, as seen in *Smith v. Mallick*, 514 F.3d 48 (3d Cir. 2008), and ensuring the proper service of pleadings, which begins a party's obligation to respond, was emphasized in *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 350 (1999).

Plaintiff's request for adjournment was solely intended to accommodate procedural fairness, ensuring that Defendants had sufficient time to review and respond appropriately to the Amended Complaint and Summons, while maintaining compliance with the Federal Rules of Civil Procedure.

#### 7. Plaintiff's Commitment to Resolution and Settlement

Plaintiff is fully committed to moving forward with this litigation while remaining open to settlement discussions. Plaintiff hopes to reach a fair resolution with Defendants and their counsel. However, should Defendants not seek additional time, Plaintiff is equally prepared to proceed with the case on its merits.

Plaintiff awaits the Court's decision on the outstanding matters currently before it.

## Conclusion

For the reasons stated above, Plaintiff respectfully requests that this Honorable Court:

1. Recognize that the Motion for Adjournment was filed solely out of courtesy to ensure procedural fairness to Defendants, given the absence of counsel at the time.
2. Acknowledge that the Amended Summonses were issued by the Court on September 5, 2024, and that service will be completed on or about September 9, 2024.
3. Permit the Defendants the appropriate time to respond to the Amended Complaint and proceed with the case in a timely manner, or proceed as the Court deems fit, as Plaintiff is fully prepared to continue.

Plaintiff awaits the Court's decision on the outstanding matters currently before it.

DATED: September 7, 2024

Respectfully submitted,

/s/ Mark Appelgren

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## Certificate of Service

I, Mark Appelgren, hereby certify that a true and correct copy of the foregoing Motion was provided to Defendants' Counsel of Record on this 7<sup>th</sup> day of September 2024, via certified mail and Transmission of Notices of Electronic filing granted by CM/ECF. Additionally, a copy of this Motion to the Court was filed via electronic mail [ecfhelp@njd.uscourts.gov](mailto:ecfhelp@njd.uscourts.gov).



Dated: September 7, 2024

A handwritten signature in blue ink, appearing to read 'Mark Appelgren', written over a horizontal line.

Mark Appelgren

Plaintiff, Pro Se

CC: Counsel of Record

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